

## HR Procedure

## Safer Employment and Criminal Convictions

### Introduction

Cumbria County Council is committed to safeguarding and promoting the welfare of children and vulnerable adults and expects all employees, volunteers and the Externally Provided Workforce (EPWs) to share this commitment.

This is reflected in the way we recruit, contract services, undertake our duties and address any safeguarding concerns which may arise. The purpose of this procedure is to ensure that those engaging in work for Cumbria County Council or Schools (on a paid or unpaid basis) are aware of their responsibilities and expectations relating to:

- Safe and fair recruitment,
- The Disclosure and Barring Service (DBS)
- Safer employment and;
- Matters arising due to criminal convictions, cautions, or an individual's actions that may be the subject of a police investigation.

Where applicable, this procedure must be used in conjunction with the [Recruitment, Appointment and Induction procedure](#) (or equivalent schools procedure), the disciplinary procedure and the DBS Data Handling procedure.

### Scope

This procedure will apply to:

- All employees
- Volunteers, School Governors or people on work experience
- Candidates seeking paid work or volunteering opportunities
- The externally provided workforce (EPW) and contractors
- Elected members

It is expected that governing bodies of all community and voluntary controlled schools would adopt this procedure. Foundation and voluntary aided schools and academies are encouraged to do the same, but as a minimum they must adhere to the safeguarding procedures established by the Cumbria Local Safeguarding Children's Board (LSCB). [Link to: LSCB Procedures](#)

## Process

### Safe and Fair Recruitment

The safe and fair recruitment of employees is the first step to safeguarding and promoting the welfare of children and vulnerable adults. The purpose of a safe and fair recruitment process is to help deter, reject or identify people who are unsuitable to work in specific roles.

As a matter of course, the recruitment process outlined in the Recruitment, Induction and Appointment procedure should be followed. Relevant pre-employment checks for the role should be received and deemed to be satisfactory before the individual starts work. Allowing an individual to start work without the necessary pre-employment clearances is a disciplinary matter. Appendix A1 provides a comprehensive list of pre-employment checks.

In line with the “**Keeping Children Safe in Education**” guidance, additional actions are needed when the work will be undertaken within an education setting such as a school, college or maintained nursery school. As a minimum, the following approach must be taken:

- Application forms should be scrutinised before shortlisting is undertaken for any gaps in employment. These should be discussed with the candidate and accounted for during the interview.
- Two written references should be taken up before interview and any issues discussed with the candidate at interview
- Interviews should be undertaken face to face.
- Prior to employment, all essential qualifications and registrations for the role must be verified.
- The relevant pre-employment checks for the role must be carried out. This includes a DBS check. See Appendix A1

### When an applicant has a Criminal Conviction

It is recognised that in order to appoint on merit, and to comply with legislation, we must consider candidates for employment from the broadest range possible, which includes ex-offenders. Obtaining a job is an essential part of successful rehabilitation. Further information on the Rehabilitation of Offenders Act can be found in Appendix B.

Anyone with a criminal record should not automatically be ruled out of any appointment process. If, through the recruitment or pre-employment process it comes to light that a candidate has a criminal conviction or caution, the recruiting manager must discuss the matter with the candidate and complete a risk assessment, which will form part of the process for considering their suitability for employment. This can be found in Appendix C.

An offer of employment must be withdrawn if the risk assessment indicates the appointment is unsuitable due to the nature of the offence or incident in question. The Assistant Director / Headteacher has responsibility for making this decision following advice from People Management / HR Provider, the Local Authority Designated Officer (LADO) or Position of Trust Lead.

All Assistant Directors will have received appropriate training, updated on an annual basis on carrying out risk assessments and assessing an individual's suitability for employment where there is cause for concern about that individual working with children and/or vulnerable adults.

### Failure to disclose a criminal conviction

The failure to disclose an unspent conviction could be seen as a deliberate attempt to gain employment by deception, and as such would result in the withdrawal of any conditional offer of employment.

It is important to note that there are a number of criminal offences in place to deter and prevent barred people from working in regulated activities. These offences can not only be committed by individual workers but also by the employers and employment agencies who give barred individuals access to regulated activities. If a manager/Headteacher becomes aware that an offence has been committed then they should seek advice from People Management/their HR Provider/LADO immediately as it may be appropriate to refer the matter to the police.

## DBS Checks

### Types of DBS Checks and eligible roles

There are 3 types of DBS clearances which return different levels of information about a person's criminal background and / or ability to work with children and /or adults. These are; standard DBS, Enhanced DBS and Enhanced DBS with barred list check. See Appendix D for more detail.

Not all roles that involve working with children or vulnerable adults require a DBS check and employers can only request a barred list check against specific roles. **It is a criminal offence to undertake a DBS check when there is no requirement for one.** It is therefore essential that the correct level of DBS check is identified against the role to ensure the appropriate safeguards are in place and no-one is checked unnecessarily.

The DBS requirements of roles within Cumbria County Council are held centrally against the post details within ITrent.

### Considering the need for a DBS

Senior Managers in conjunction with People Management / HR Provider should consider whether a role needs a DBS check in the following circumstances:

- When a new role is created
- Where the activities undertaken within the role change
- When there is a change in frequency of certain activities (e.g. the role now involves working with children more than once a week or more than 3 times a month when previously this was undertaken on an ad hoc basis)
- When the role's work base changes (e.g. where an office based admin role is relocated to work in a care home or school)
- When a line management role has a new responsibility and now supervises individuals that require a DBS check and /or will be undertaking regulated activity.\*

\*Regulated activity is activity that you are not permitted to undertake or seek to undertake if you are barred from working with children and / or vulnerable adults. Additionally, line managers should receive the same level of check of those within their team, provided the employee(s) they directly manage or supervise carry out their activity on “the front line”. The regulations outlining what activities are regulated can be found in Appendix D.

### **Assessing the level of DBS check needed**

If a DBS is thought to be needed in the circumstances outlined above senior managers must take steps to assess the level of DBS check required. In the first instance, they should do this by completing the on-line eligibility assessment tool here: [link to DBS Eligibility Tool](#).

This tool covers most roles, however if further clarification is needed, Senior Managers can refer to the regulations relating to regulated activity and the DBS workforce guidance which outlines the circumstances a check can be made. This information can be found in Appendix D.

Further advice can be sought from People Management / the HR Provider if needed.

If there is still a question about DBS eligibility, Senior Managers should contact DBS customer services for clarification. They can do this by emailing [CustomerServices@dbs.gsi.gov.uk](mailto:CustomerServices@dbs.gsi.gov.uk) who will aim to respond within 10 working days. Any response received from the DBS regarding the DBS eligibility of a post should be forwarded to People Management.

The DBS eligibility must be indicated on the post specification for the job and this information should be signed off by the Assistant Director / Headteacher. The information should be sent to Service Centre/ HR Provider who will record the DBS eligibility against the role within iTrent or equivalent School Management information system.

### **Requesting a DBS Check**

DBS checks will be undertaken as part of the recruitment process or the 3 yearly rechecking process. If a new DBS check is required for reasons other than this, line managers / head teachers must inform the service centre/ school provider who will initiate the checking process.

Any records relating to DBS data must be handled and recorded in line with [DBS Data Handling, Use, Storage, Retention and Disposal procedure](#).

## **Safer Employment**

### **Professional Registrations**

A number of roles require individuals to be registered with a professional body in order to legally practice in their field, e.g. solicitor, social work roles. Where this applies, registration is a condition of employment and individuals are required to renew memberships seamlessly during the course of their employment / engagement. If a professional body has placed restrictions on an individual's ability to practice, or registration has expired, the individual should inform their line manager immediately who will take the appropriate action with advice from People Management / their HR Provider.

CCC employees are under an ongoing duty to disclose to their manager any matters which are subject to a referral to their professional body.

Professionals cannot be permitted to practice when their registrations have lapsed for any reason. Line managers are required to monitor and validate this renewal on an annual basis (or sooner where required).

### **Declaring a Change of Personal Circumstances (Safeguarding)**

Individuals are contractually required to declare any convictions, cautions or, actions that may be the subject of a police investigation, where these are relevant to the role that the individual is carrying out.

Additionally, individuals should report any change in personal circumstances that may impact on their suitability or appropriateness to carry out certain activities, or work with particular individuals / service users, e.g. where there is a conflict of interest, where a restraining order is in place or where the individual is “barred by association”. All declarations should be made, without delay to their line manager and failure to disclose will be a disciplinary matter.

### **Disqualification under the Childcare Act / Barred by Association**

Individuals providing childcare and working with particular age groups are also required to inform their line manager and People Management if they are / become disqualified from undertaking certain activities as outlined in the Childcare (Disqualification) Regulations 2009. This includes being “barred by association” and more information can be found in Appendix E.

### **Identifying and Reporting a Cause for Concern**

It is the responsibility of all employees to support a safe working environment and report any cause for concern appropriately. A cause for concern could include; suspected neglect, abuse, mistreatment, exploitation, theft, poor care / professional practice, criminal activity or disqualification from working with certain groups. It extends to conduct or circumstances outside of the working environment which may impact on the suitability of individuals undertaking certain activities.

Any cause for concern regarding the conduct of an individual should be reported to their line manager without delay. Where the cause for concern relates to that manager, the issue can be raised to the next level of line management. Alternatively, employees may wish to use the [Whistleblowing Policy](#) to raise concerns.

### **Addressing a Cause for Concern**

A line manager can receive a cause for concern from a number of sources (i.e. a fellow colleague, the DBS, police etc.). Line managers must arrange to meet with the individual immediately to discuss the concerns. This should be addressed in line with the *preliminary* stages of the [Disciplinary Procedure](#).

### **Safeguarding allegations involving Children**

Cumbria County Council has a Local Authority Designated Officer (LADO) who is involved in the management and oversight of individual cases involving safeguarding allegations against individuals who work with children. The LADO **must be informed of all safeguarding**

**allegations against adults who work with children** as soon as possible and no later than 1 working day. The LADO provides advice and guidance on safeguarding procedures and where applicable, is involved in the initial phase of the allegation through to the conclusion of the case. Further information is available on the LSCB Website. [Link to: LSCB Procedures](#)

### **Safeguarding allegations involving Adults at Risk**

Cumbria County Council has a Position of Trust Lead who is involved in the management and oversight of safeguarding cases involving Adults at risk. The Position of Trust Lead **must be informed of all allegations against staff members where there is a cause for concern relating to individuals who work with adults that appear to have health and /or social care needs.**

### **Referrals to the DBS and Regulators**

Some incidents may require a referral to the DBS for their determination as to whether the individual needs to be barred from working in certain activities. Managers/Headteachers must seek advice from People Management/the HR Provider and the LADO/Position of Trust Lead as soon as they are advised of an incident which may need to be referred to DBS.

The Position of Trust Lead can advise if the matter should be made known to the Care Quality Commission (CQC) who must be notified of certain incidents, events and changes that affect a service or the people using it. This includes where there is a risk of abuse or allegation of abuse involving a person using adult social care services.

Employers and employees are responsible for adhering to guidance, codes of conduct and best practice of regulators such as Ofsted, the Nursing and Midwifery Council and the Health and Care Professions Council. Referral to the candidate's professional body may be appropriate and advice must be sought from People Management/HR Provider.

### **Continuous Safeguarding**

As part of our commitment to safeguarding, individuals are required to undertake safeguarding declarations and training on appointment and as required by Cumbria County Council/ the School.

### **Induction**

During the induction process, all individuals who work with vulnerable adults / children are required to undertake "Safer Employment" training. This is an E-Learning course which is available on the Learning pool or School Portal. This training applies to individuals who will be working for the council or school on a paid basis and individuals who *regularly* volunteer with the council/ school.

In addition, before an individual can work unsupervised with a child or vulnerable adult, their induction must take account of recognised standards and safeguarding arrangements within their sector and role.

### **Self-Declaration and E-Learning**

If an individual is working in a role that requires a DBS check, they will be required to complete a safeguarding self-declaration form and the Safer Employment e-learning training on an annual basis. This includes those that work for the council on a Volunteering/ EPW basis.

For Council based staff, managers and employees will receive an email enabling them to complete an online self-declaration form. For school based staff and those without email access, the self-declaration form in Appendix F should be completed.

Managers should contact People Management / HR Provider if any issues arise following the completion of a self-declaration.

### **Changes to the job / Internal Movers / Portability**

If an individual transfers to another role within Cumbria County Council, a Community School or Voluntary Controlled School, their move is classed as an internal move and their DBS will be transferable. This is provided that a) they have been working regularly in the position, b) there is no gap in employment and c) the same level of clearance is needed between their old and new role.

However, if the level of DBS clearance needed between their old and new role is different, managers need to consider if a new DBS check is needed. For example, if an existing employee has had a standard DBS check and they move to an internal position that requires an enhanced check, they will need a new DBS check as the level of clearance needed in the new role is higher than their existing role.

DBS checks are not “portable” where the individual changes employer, unless the individual is registered with the DBS Update Service. See appendix A1 for more details on the update service.

A tool to help assess if a new DBS is needed can be found in Appendix G.

### **Automatic Rechecks every 3 years**

Employees who occupy particular roles within Cumbria County Council will be required to undertake a new DBS check, every 3 years. Those registered with the update service will have their status checked no less than once every 3 years. Employees and managers will receive a reminder email if their DBS recheck is due.

Schools can request a DBS recheck for employees every 3 years should they wish to do so. Where rechecks are carried out, schools should ensure the information is recorded accordingly and not held against the Single Central Record which requires **pre-employment** DBS information.

The Council/School reserves the right to regularly check an individual's Disclosure and Barring Service (DBS) status where necessary.

### **Resources and ICT Access**

When individuals move roles or are suspended / redeployed from duty, consideration needs to be given to the resources, equipment and ICT systems they have access to. Managers must take the appropriate steps to ensure that employees have relevant and appropriate access to what is required in the course of their employment, e.g. access to an ICT system is removed or uniforms are retrieved when an individual moves roles or leaves.

## Engaging Contractors

All employees involved in commissioning/procurement must ensure that, where applicable, all contracts and agreements are compliant with the safeguarding principles, practices and obligations on CCC / the school relevant to the services they are providing.

For example, service providers are required by Cumbria County Council to ensure relevant DBS checks are carried out on their employees where applicable. Contractual terms must require providers to give declarations that they are compliant with the appropriate recruitment and DBS referral practices for their contracted service area.

### Externally Provided Workers (such as Agency Workers, Consultants etc.)

An agency is legally the employer of any agency workers and the responsibility to obtain a relevant check is theirs. When using staff from a supply agency, managers/ headteachers must satisfy themselves by having a written confirmation from the supplier that the appropriate pre-employment checks, including DBS checks, have been carried out.

When an agency deploys an agency worker (e.g. to a school or Cumbria County Council etc), the individual does not usually require a new DBS check between their placements, provided that their DBS check is at the right level for the work being carried out.

However, where an agency / casual worker, who works intermittently, has not worked for 3 months or more their employer must apply for a new DBS check. Alternatively, if the casual worker has registered with the DBS Update Service, a DBS status check may be undertaken (See Appendix A1.)

If an agency worker changes their employer (e.g. a supply teacher changes agency over the summer holidays, but wishes to continue to carry out work in the same school at the beginning of the new term) they will require a new DBS check and the manager / headteacher will need written confirmation as above.

Self-employed contractors who are engaged will be subject to the same DBS check requirements as employees. If a self-employed contractor does not have an appropriate DBS check then the Cumbria County Council Service Centre or HR Provider may be able to facilitate this.

For further advice or guidance on the content on this procedure, please contact People Management or the School HR provider.

For Schools:

Name of School:	
Date by which School have adopted procedure:	
Signature of Chair of Governors	

**September 2017**

## A1. Pre-Employment Checks for Safeguarding Appointments

The table below provides a list of pre-employment checks applicable for safeguarding appointments. The type of pre-employment check required is dependent on the role and setting the employee will be working in.

Types of Pre-employment check	Further details	Applies to
Right to Work in the UK	To check if someone can work in the UK, and find out what documentation needs to be provided and copied, please access the tool below:  Link to: <a href="#">Right to work in the UK tool</a>	All employees
2 References	Satisfactory references to be received prior to appointment. For those working in an education setting, the references must be requested prior to interview so any issues / gaps can be discussed at interview.	All employees
Occupational Health Clearance	Outlining the fitness for the candidate to work in the role and any reasonable adjustments to accommodate the appointment.	All Employees
Proof of relevant qualifications	The qualifications needed to undertake the role as outlined in the role profile and post specification	All Employees
Teacher Services Checks	Teacher Services Checks are needed prior to employing a teacher. They cover <ul style="list-style-type: none"> <li>the award of QTS</li> <li>completion of teacher induction</li> <li>prohibitions, sanctions and restrictions that might prevent the individual from taking part in certain activities or working in specific positions</li> </ul> <a href="#">Link to: Teacher Services</a>	Teaching Roles only
Childcare (Disqualification) declaration	Pre-employment declaration form confirming the prospective employee is not disqualified from working with children of a particular age group in schools.  For more information see Appendix E	Individuals providing childcare and working with particular age groups  Peripatetic /supply staff who could provide childcare for this age group during their employment
Proof of relevant registrations or licenses	Certain roles require registrations or licences before an individual can work in the service.  For example: <ul style="list-style-type: none"> <li>CQC registration for health and social care roles</li> <li>HCPC / GSCC registration for Qualified Social Workers and Occupational Therapists</li> </ul>	Relevant roles only as outlined in the post specification

<p>DBS Check</p>	<p>Those working in roles that are eligible for a DBS check require DBS check before commencement. Types of check:</p> <ul style="list-style-type: none"> <li>• Standard DBS</li> <li>• Enhanced DBS</li> <li>• Enhanced with barred lists (children's and /or adults)</li> </ul> <p>When certificates are received, managers / headteachers should complete Appendix A2.</p>	<p>Relevant roles only as outlined in the post specification</p>
<p><b>Alternative DBS</b>  Update Service Check</p>	<p>This check replaces the need for a DBS, but can only be applied to candidates who are registered with the DBS update service. See below for more detail.</p> <p>Update Service consent form is available in Appendix A2</p>	<p>Relevant roles only as outlined in the post specification</p>
<p>Statement of good conduct</p>	<p>The DBS cannot access overseas criminal records. Where a candidate has spent time living or travelling abroad it is the applicants' responsibility to obtain a Record of Good Conduct from the appropriate country. Failure to do so may result in any offer of employment being rescinded. Advice must be sought from People Management/HR Provider</p> <p><a href="#">Link to: How to apply for a statement of good conduct</a></p> <p>This check may be needed in addition to a DBS check.</p>	<p>Posts requiring a DBS Check</p>
<p><b>Interim Check</b>  DBS Adult First Check</p>	<p>This can be used in exceptional circumstances only, to confirm whether a person can start work, under supervision before the results of the enhanced check are received. People Management / HR Provider must be consulted in these circumstances and approval for this check must be signed off by the Assistant Director / Head teacher. See below for more detail.</p>	<p>Roles eligible for an enhanced DBS check with Adults barred list <b>only</b></p>

## The DBS Update Service

The DBS Update Service is an online service which enables employers, with the individuals' permission, to carry out free status checks on an individual's DBS certificate. The check will indicate whether there has been any change in the individual's criminal record status since their last DBS certificate was issued. If there has been a change, the employer can request the individual completes a new DBS check.

If an individual wishes to subscribe to the Update Service they have up to 30 days to apply online from the issue date of their DBS certificate or once they receive the application form reference number and pay an annual subscription charge. There is no subscription charge for volunteers. Children's residential staff are required to register with the Update Service and therefore their subscriptions will be reimbursed.

The Council/School will ONLY accept a copy of a DBS certificate obtained through a previous employer where the individual has subscribed to the Update Service and their DBS certificate relates to their Update Service registration.

When offering an appointment, the manager/Headteacher should ask individuals if they are a member of the Update Service and if so:

- Confirm that their original DBS check covers the needs of the role (e.g. If they registered with the update service under a barred adults check, and the new role needs a barred Children's check, the update service cannot be used and a new DBS is needed)
- request that the individual provides their consent for the Council / School to check their Update Service status by completing the form which is available at Appendix A2
- send the DBS Verification form to the Service Centre /HR Provider so the Update service check can be undertaken.

Further information is available at <https://www.gov.uk/dbs-update-service>

## **DBS Adults First**

New members of staff who are going to work in regulated activity with adults can begin work before their DBS certificate has arrived, using the 'Adult First' system. However, in order to progress with this type of check managers must demonstrate that the safety of people using the service would be put at risk if there were delays in recruitment. This would only be the case in exceptional circumstances and authorisation from the Assistant Director is required.

Additionally, the following safeguards must be in place prior to the receipt of the full DBS check:

- An appropriately qualified and experienced member of staff will supervise the individual.
- Wherever it is possible, this supervisor is on duty at the same time as the new worker, or is available to be consulted; and
- New workers do not escort people away from the premises unless accompanied by a member of staff for whom a full and satisfactory DBS certificate has been received.

The applicant must complete a DBS application form and pass it to a counter signatory in the normal way, asking for an Adult First check.

There is no equivalent 'quick check' of the children's barred list so an Adult First check is not appropriate if a person intends to work with both children and adults.

## A2. DBS Verification and Update Service Form

This form must be completed when an individual is presenting their DBS certificate. It should also be used for when an employee or candidate is registered with the DBS Update Service. The DBS should be checked and signed by the relevant manager.

### Employee/Candidate Details

<b>Name</b>		<b>Date of Birth</b>	
<b>Post Title</b>		<b>Directorate / School</b>	

### DBS Certificate Details

<b>Certificate Number</b>		<b>Date of Issue</b>	
<b>Certificate Type</b>	Standard	<b>Information of Concern raised on Certificate</b>	<b>Yes* / No</b>
	Enhanced		
	Enhanced – children barred list		
	Enhanced -adult barred list		
	Enhanced -children & adult barred list		

\*If Yes an Assistant Director/Headteacher should be informed and a risk assessment completed.

### ID Check Details

<b>Form of ID Seen</b>		<b>Date of Identification Document</b>	
<b>Document Reference</b>		<b>Date ID Seen</b>	

I confirm that I have seen the original DBS certificate and this is an appropriate level of check for the role the individual is / will undertake. I confirm I have checked the identification presented by the applicant/employee.

<b>Approval to Proceed</b>	<b>Yes / No</b>	<b>Date</b>	
<b>Signed Manager / Headteacher</b>		<b>Was a Cause for Concern Identified?</b>	<b>Yes/ No</b>
<b>Manager/ Headteacher Print Name</b>		<b>If yes (above) was a Risk Assessment Undertaken?</b>	<b>Yes / No / N/A</b>

### Update Service (only complete where applicable)

I hereby give Cumbria County Council/School permission, in the course of any job application, and during any subsequent relevant employment with them to check the DBS update service. I also give permission for the manager to share the details of my DBS certificate with the Service Centre/HR Provider.

<b>Signed (employee/ candidate)</b>		<b>Date</b>	
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**Please return to the Service Centre / HR Provider**

### Service Centre Use

<b>Date Update Service Check Completed</b>		<b>New Disclosure Required</b>	<b>Yes / No</b>
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## B. The Rehabilitation of Offenders Act

It is recognised that in order to appoint on merit, and to comply with legislation, we must consider candidates for employment from the broadest range possible, which includes ex-offenders. Obtaining a job is an essential part of successful rehabilitation. Cumbria County Council actively promotes equality of opportunity for all with the right mix of talent, skills and potential, and welcomes applications from a wide range of candidates for interview based on skills, competencies, qualifications and experience.

The Rehabilitation of Offenders Act 1974 (ROA) was introduced to support the rehabilitation of offenders who have not been reconvicted of any serious offence for specific periods. The Act enables criminal convictions to become 'spent' or ignored after a specified 'rehabilitation period'. The Act excludes some offices and occupations - 'Exceptions to the Act' – where people are expected to declare their convictions, even if they are spent.

Changes to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (SI 1975/1023) in 2013 mean that some spent convictions and cautions are 'protected' and do not have to be disclosed by candidates for a role and may not be taken into account by employers when making recruitment decisions. A range of serious offences and those which relate to sexual or violent offending, or are relevant in the context of safeguarding will never be 'filtered' from a criminal record check. In addition, all convictions resulting in a custodial sentence, whether or not suspended, will remain subject to disclosure, as will all convictions where an individual has more than one conviction recorded. Additional information which explains the filtering of old and minor cautions and convictions which are now 'protected' (so not subject to disclosure to employers) is available at <https://www.gov.uk/government/collections/dbs-filtering-guidance>

It is important to note that amongst other defined roles posts involving work with children or vulnerable adults who meet the definitions set out in the Act are exempt from the provisions of the Rehabilitation of Offenders Act 1974. Individuals who are applying for work in this area will be required to state whether or not they have any convictions or criminal charges or summonses pending whether or not their conviction is regarded as 'spent'. Spent convictions which are "protected" or "filtered" from an individual's criminal record do not need to be disclosed.

## C Pre-Employment Risk Assessment, Cause for Concern

This risk assessment must be completed by recruiting managers where there is cause for concern with the appointment of a candidate. This risk assessment will form the basis of the Assistant Director / Headteacher's decision to appoint / not to appoint someone into a position. Advice should be sought from People Management (or HR Provider), LADO or Position of Trust Lead.

### Candidate Details

<b>Name</b>		<b>Vacancy Title</b>	
<b>Directorate</b>			

<b>1</b>	Does the individual have a relevant DBS check and where applicable, does the individual agree that the information detailed on the DBS certificate is correct?	
<b>2</b>	Is the offence relevant to the position applied for (explain why)?	
<b>3</b>	Description of concern: Include who was involved, where and why.	
<b>4</b>	The length of time since the incident / offence(s) occurred.	
<b>5</b>	Did the individual declare the matter? If not how was the issue brought to the attention of CCC?	
<b>6</b>	Do the matters disclosed form any pattern? For example, was this a one off incident or part of a history of incidents / offending?	
<b>7</b>	Any relevant information offered by the individual about the circumstances which led to the incident / offence being committed.	
<b>8</b>	Have the individual's circumstances changed since the offence was committed, making re-offending less likely. Can the applicant demonstrate any efforts not to re-offend and any efforts to rehabilitate?	
<b>9</b>	Consideration given to the country in which the offence was committed. Some activities are offences in Scotland and not in England and Wales, and vice versa.	Yes / No / NA
<b>10</b>	What is the nature of the contact the individual will have with children/adults/the public and how vulnerable are they?	
<b>11</b>	What was the nature/seriousness of the incident/ offence (s) and its relevance to the post and safety of other staff, customers, clients and property?	
<b>12</b>	Does the job present any opportunities for the applicant to re-offend in the place of work?	Yes / No / NA
<b>13</b>	What level of and how much supervision is required and is available to the individual?	
<b>14</b>	Can any adjustments or reasonable measures be implemented to reduce/remove any potential risk e.g. no unsupervised contact, modification of roles?	

<b>15</b>	Are there any other concerns that have come to light through the pre-employment check process, Consider references, relevant registrations / qualifications etc.	Yes / No
<b>16</b>	Does the applicant understand that any offer of employment will be subject to the information supplied and that this is complete and correct. False information, or a failure to supply the details required could make an offer of employment invalid or lead to termination of employment	Yes / No

**Please use the space below to provide further detail/additional comments where required:**

**Declaration/ Consent:**

- I confirm the information I have provided is correct and complete to the best of my knowledge.
- Where applicable, I give consent for my DBS certificate to be made available to those involved in the decision making process relating to the outcome of this risk assessment.
- I understand and accept that if I knowingly withhold information, or provide false or misleading information this may amount to gross misconduct or in some circumstances I may be liable for prosecution.

<b>Signed Applicant/Employee</b>		<b>Date</b>	
<b>Print Name:</b>		<b>Position Title:</b>	

<b>Signed Manager</b>		<b>Date</b>	
<b>Manager Print Name:</b>		<b>Manager Position Title:</b>	

**Outcome of Risk Assessment (Assistant Director / Headteacher to complete)**

proceed with appointment / withdraw offer of employment / adjustments or measures needed or taken (specify with reasons)

<b>Signed Assistant Director /Headteacher</b>		<b>Date</b>	
<b>Print Name:</b>		<b>Position Title:</b>	

## D. DBS Regulations, Types of Check Levels and Regulated Activity

### Types of DBS Checks

Check Type	Information returned
Standard	This check is for spent and unspent convictions, cautions, reprimands and final warnings in accordance with filtering rules.
Enhanced DBS	Enhanced checks include the same information as the standard check plus any additional information held by local police that's reasonably considered relevant to the role being applied for.
Enhanced DBS including Barred Lists check	Includes the same information as the enhanced check, plus checks if the individual is barred from working in certain activities (known as regulated activity) which involve children and / or adults.
DBS Adult First	This checks the individual against the adults barred list. This is an interim check which does not provide any information on criminal convictions. To be used in exceptional circumstances.

### Regulated Activity

There are 2 barred lists – one relating to people barred from working with children and one relating to people barred from working with adults. In some circumstances a check of both barred lists will be required. It is a criminal offence for an individual to work (either paid or as a volunteer) in a 'Regulated Activity' whilst being barred from working with children and/or adults. It is also an offence to knowingly allow someone to engage in regulated activity whilst barred.

The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012). Regulated activity still excludes family arrangements, and personal, non-commercial arrangements.

Further clarity about the definition of regulated activity can be found in the guidance documents below:

- [Regulated Activity with Children \(Department of Education\)](#)
- [Regulated Activity with Adults \(Department of Health\)](#)

The guide to eligibility document produced by the DBS is available at <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance>

## E. Disqualification under the Childcare Act 2006 (Including Barring By Association)

This legislation outlines the circumstances where an individual is disqualified from working with children of particular age groups. Disqualified individuals are legally prohibited from working in the circumstances mentioned below. It is an offence to knowingly engage someone who fits the disqualification criteria.

### Scope

Individuals in scope provide early year's childcare up to reception age (from birth until 1<sup>st</sup> September following a child's 5th birthday) or later years childcare (for children under 8) outside of school hours (e.g. breakfast clubs/ afterschool clubs etc.). This can be on a paid, unpaid or casual basis

### Disqualification

There are a number of reasons why a person may be disqualified, for example, they may be "disqualified by association" due to them living in the same household as someone who is on the Children's barred list.

Full details can be found in the [Disqualification under the Childcare Act 2006](#) and individuals, and their line managers, should familiarise themselves with the details of this legislation prior to appointment.

### Pre-employment Declaration

Any individual in a role where this legislation applies will be required to complete a self-declaration form prior to employment/engagement. The declaration ensures the individual is aware that their role is covered by this legislation. It also requires them to confirm they are not disqualified at the point of declaration and that they will inform their line manager if this changes at any point during their employment / engagement in the role.

This extends to those working in a peripatetic / supply role where they could, at any point, within their employment be deployed into a role where they could be in scope of this legislation, e.g. a supply teaching assistant who provides childcare in a range of settings.

### When an individual is disqualified during employment

**If an individual becomes disqualified during the course of their employment / engagement they must inform their line manager as soon as possible** and provide any relevant details of the circumstances relating to their disqualification. The line manager must inform their HR Provider / People Management and the LADO for advice and arrange to meet with the individual without delay.

Disqualified individuals are legally prohibited from working in the circumstances mentioned above. As such, managers must make immediate arrangements to ensure the individual ceases to provide the type of childcare they are disqualified from.

## Waiver Application and Temporary Arrangements

Where applicable, the individual must apply to Ofsted for a waiver from their disqualification without delay. Further details about how to make an application for a waiver can be found in the Ofsted fact sheet which can be accessed via the following link: [Applying to waive disqualification: early years and childcare providers](#).

Until the results of the waiver are received, an employee may be temporarily redeployed into a suitable role, have temporary adjustments made to their role, or as a last resort, they may be suspended. These arrangements should continue to be reviewed as appropriate.

## Waiver Results and Actions

If a waiver from Ofsted is granted, arrangements should be made to return the employee to their full duties as soon as is reasonably possible without disruption to the service.

In circumstances where a waiver is not automatically granted, the case should be reviewed by the HR Provider / People Management, LADO, line manager and AD/ Headteacher to decide on the appropriate course of action.

Opportunities for suitable alternative employment should be considered for the individual along with permanent reasonable adjustments to the role. However if these options are not possible it will result in the individual's termination of employment.

## Disciplinary Matters

Disqualification under the Childcare Act should only be treated under the Disciplinary Procedure where:

- There are allegations the individual failed or delayed to disclose any relevant information in a timely manner.
- The individual is disqualified due to their conduct (e.g. they are now on the children's barred list).
- They refuse to apply for a disqualification waiver in a timely manner.

## F. Safer Employment - Self-Declaration Form

A self-declaration must be completed by individuals who occupy or regularly volunteer in a post where a DBS check is required. The declaration should be completed at least once every 12 months and returned to your manager/Headteacher, who will then make the arrangements for it to be kept on your personal record. Managers / headteachers should address any cause for concern accordingly and a DBS recheck may be required.

### Employee / Individual's Details

<b>Name</b>		<b>Employee Number</b>	
<b>Post Title</b>		<b>Directorate/School</b>	

<b>1.</b>	I am aware of my contractual obligation to declare any convictions, cautions or actions that may be the subject of a police investigation whilst employed.	<b>Yes / No</b>
<b>2.</b>	I can confirm I have not been convicted of or received cautions for any offences since my last DBS check or since I last completed a safer employment self-declaration.	<b>Yes / No</b>
<b>3.</b>	I can confirm that I am not currently or have never been the subject of an investigation into a concern about any child in my care or investigated under adult protection safeguarding procedures.	<b>Yes / No</b>
<b>4.</b>	I can confirm that I am not on any Barred Lists	<b>Yes / No</b>
<b>5.</b>	I confirm that, to the best of my knowledge, I am not disqualified from providing care or being involved in the management of care on any of the grounds set out in the Childcare Act 2006 or the Childcare (Disqualification) Regulations 2009	<b>Yes / No / N/A</b>
<b>6.</b>	I confirm that, to the best of my knowledge, there is no one who lives or is employed in my household who is disqualified from providing care or being involved in the management of care on any of the grounds set out in the Childcare Act 2006 or the Childcare (Disqualification) Regulations 2009.	<b>Yes / No /N/A</b>

**If you have answered 'no' to any of the above questions please provide further information outlining any action taken:**

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<b>7.</b>	I am aware of my responsibility for safeguarding and promoting the welfare of children, young people and adults at risk.	<b>Yes / No</b>
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**Please use the space below to provide further information that the Council/School should be aware of:**

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#### Declaration:

- I confirm that the information that I have provided in this declaration form is correct and complete.
- I understand and accept that if I knowingly withhold information, or provide false or misleading information this may amount to gross misconduct or in some circumstances I may be liable for prosecution.

<b>Signed (Individual)</b>		<b>Date</b>	
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#### Management:

<b>Cause for concern</b>	<b>YES / NO</b>	<b>DBS recheck Requested</b>	<b>YES / NO</b>
<b>Signed</b>		<b>Date</b>	

## G. Internal Movers DBS Assessment

Use this tool to assess if an individual requires a new DBS check following a change to their current duties, or the conditional appointment of a new, internal position.

### Employee Details

<b>Employee Name</b>		<b>Employee Number</b>	
<b>New Post Title</b>		<b>Previous Post Title</b>	

<b>A</b>	Is the individual's employer staying the same?	<b>Yes / No</b>
<b>B</b>	Will the individual be working with the same types of service users (e.g. Vulnerable Adults, Children or other)?	<b>Yes / No</b>
<b>C</b>	Has the individual had a DBS check in the existing role?	<b>Yes / No</b>
<b>D</b>	The individual has NOT had a break in working for 3 months or more	<b>CORRECT/ INCORRECT</b>
<b>E</b>	Is the level of DBS check required in the new role, the same as the level of DBS check required in the existing role?	<b>Yes / No</b>
<ul style="list-style-type: none"> <li>• <b>If "No/ Incorrect" to any questions from A-D, the individual requires a new DBS check.</b></li> <li>• <b>If "Yes/ Correct" to all the questions above, the individual does not require a new DBS check when moving roles.</b></li> <li>• <b>If the answer to question E was "No", please complete the section below</b></li> </ul>		
<b>F</b>	Does the Individual have an Enhanced Check with Adults and Children List?	<b>Yes / No</b>
<b>G</b>	Does the individual have an Enhanced Check with a barred list but now needs an enhanced or standard check?	<b>Yes / No</b>
<ul style="list-style-type: none"> <li>• <b>If "Yes" to questions F-G, the individual does NOT need a new check.</b></li> </ul>		
<b>H</b>	Does the individual have a standard or enhanced check but now requires an enhanced check with a barred list check (children's, adults or both)?	<b>Yes / No</b>
<ul style="list-style-type: none"> <li>• <b>If "Yes" to question H, they DO need a new check</b></li> </ul>		

If an employee requires a new DBS check, please inform the Service Centre / School Provider who can arrange for the DBS forms to be processed.